

I5G3ATI1

Sentencing

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

S4 15 Cr. 867 (RMB)

5 MEHMET HAKAN ATILLA,

6 Defendant.

7 -----x

8  
9 May 16, 2018  
10 10:15 a.m.

11  
12 Before:

13 HON. RICHARD M. BERMAN,

14 District  
15 Judge

16  
17 APPEARANCES

18 GEOFFREY S. BERMAN,  
19 United States Attorney for the  
Southern District of New York

20 MICHAEL D. LOCKARD,  
SIDHARDHA KAMARAJU,  
21 DAVID W. DENTON, JR.,  
DEAN C. SOVOLOS,  
22 Assistant United States Attorneys

(APPEARANCES Continued)

HERRICK, FEINSTEIN LLP (NYC)

Attorneys for defendant Atilla

BY: VICTOR J. ROCCO, Esq.

THOMAS E. THORNHILL, Esq.

- and -

FLEMING RUVOLDT, PLLC

BY: CATHY A. FLEMING, Esq.

ROBERT J. FETTWEIS, Esq.

- and -

LAW OFFICES OF JOSHUA L. DRATEL, P.C.

BY: JOSHUA LEWIS DRATEL, Esq.

Of counsel

-and-

McDERMOTT WILL & EMERY

BY: TODD HARRISON

Also Present:

JENNIFER McREYNOLDS, Special Agent FBI

MICHAEL CHANG-FRIEDEN, Paralegal Specialist USAO

MS. ASIYE KAY, Turkish Interpreter

MS. SEYHAN SIRTALAN, Turkish Interpreter

1 (In open court)

2 THE COURT: Good morning, everybody.

3 So, we have a lot of ground to cover, and this may  
4 take a while. I'm anticipating probably more than an hour,  
5 maybe two. We'll see.

6 So let me start by welcoming you all here and  
7 mentioning at the outset that this is something of an  
8 exceptional sentencing proceeding in the sense, among others,  
9 that in addition to U.S. citizens who generally follow our  
10 cases, there no doubt are large number of Turkish citizens who  
11 are also very interested in and are following these  
12 proceedings.

13 So for that reason, that is to say, the Americans who  
14 are interested and the Turkish people, and others, who may be  
15 interested, I'm planning to arrange that a copy of the  
16 transcript of today's proceeding, verbatim and without edits,  
17 will be made publicly available as soon as possible, and  
18 hopefully some time today, on the internet. The idea is so  
19 that everyone will know exactly what was said here, and so that  
20 everybody can evaluate the outcome for themselves.

21 We also have certified Turkish language interpreters  
22 who will interpret these proceedings and everything that is  
23 said here.

24 I don't intend to summarize the details of this case  
25 at this proceeding, but I refer to and incorporate by

1 reference, first, the full written transcript of Mr. Atilla's  
2 trial, and second, all of the relevant prior court rulings,  
3 including, without limitation, the Court's Rule 29(a) decision  
4 and order dated February 7, 2018, which provides a good summary  
5 with many of the key issues in this case.

6 That decision and order describes, for example,  
7 meetings that Mr. Atilla held with others on behalf of the  
8 Turkish state-owned bank, Halkbank, with senior U.S. officials  
9 in Washington, D.C., and in Turkey, concerning the United  
10 States sanctions against Iran. And that includes with U.S.  
11 officials, Former U.S. Undersecretary of the Treasury for  
12 Terrorism and Financial Intelligence David Cohen, who testified  
13 in the case about his interactions with Mr. Atilla and  
14 Halkbank, and former Director of the Office of Foreign Assets  
15 Control Mr. Adam Szubin, who testified that Mr. Atilla was the  
16 principal representative of Halkbank with whom he interacted.

17 And in fact, during the trial, the following questions  
18 and answers between defense counsel and Mr. Cohen on  
19 cross-examination occurred. Defense counsel Mr. Rocco asked:  
20 "Q. And how about in your" -- meaning David Cohen's --  
21 "conversations with Halkbank, did you tell Halkbank, ever, that  
22 sanctionable activities was unlawful or illegal or criminal?"

23 And Cohen responds, "Yes."

24 And then some lines below, Mr. Cohen says, "As I  
25 testified just a moment ago, part of my standard presentation

1 on U.S. sanctions programs was that IEEPA-based sanctions,  
2 which includes Executive Order 13622, that the violation of  
3 IEEPA-based sanctions can expose the violater to sanctions or  
4 potentially criminal prosecution."

5 Cohen had in the trial testified about Mr. Atilla's  
6 extensive knowledge of the U.S. sanctions regulations.

7 In sentencing a defendant, which is what we're about  
8 today, following the U.S. Supreme Court decisions in Gall v.  
9 United States, Kimbrough v. United States, and United States v.  
10 Booker, and following the Second Circuit decisions in United  
11 States v. Crosby, and United States v. Regalado, we recognize  
12 the following sentencing principles:

13 First, that the United States sentencing guidelines  
14 are no longer mandatory; and second, that the Court must, and  
15 in this case I have to great length, even before taking the  
16 bench today, considered the United States sentencing guidelines  
17 and all the other factors mentioned in 18, United States Code,  
18 Section 3553(a), which include the following:

19 The nature and the circumstances of the offenses and  
20 the history and characteristics of the defendant. And as you  
21 will see, these two factors are, to me, especially important in  
22 this case.

23 The factors also include the need for the sentence  
24 imposed to accomplish certain objectives, which include  
25 reflecting the seriousness of the offense, promoting respect

1 for the law, and providing a just punishment for the offense.  
2 And these three additional factors are also important in my  
3 consideration and deliberation.

4 Also, the 3553(a) factors include the obligation to  
5 afford adequate deterrence to future criminal conduct, to  
6 protect the public from further crimes, to provide the  
7 defendant with any needed medical care, educational or  
8 vocational training or other correctional treatment in the most  
9 effective manner. And these factors are also of significance.

10 We also look at the kinds of sentences that are  
11 available, the kinds of sentence and the sentencing range  
12 established under the United States sentencing guidelines, even  
13 though, as I say, they are no longer mandatory.

14 I do have a chart which in a minute or so we'll hand  
15 out, it might make things easier for you, which reflects each  
16 party's evaluation of the United States sentencing guidelines  
17 and how they apply in this case. And you'll see there is a  
18 very, very wide disagreement or disparity in the  
19 interpretations of the guidelines.

20 We also look at any applicable policy statements that  
21 may have been issued by the United States sentencing  
22 commission, we seek to avoid unwarranted sentence disparities  
23 among similarly situated defendants, and, in appropriate cases,  
24 to provide for restitution.

25 We always begin our sentencing analysis with a

1 sometimes unavoidably lengthy and technical United States  
2 sentencing guidelines calculation. Even though, as I said  
3 before, the United States sentencing guidelines are no longer  
4 mandatory.

5 But I'll give you all a heads up at this very early  
6 point in the sentencing, which is that, while I certainly will  
7 discuss the sentencing guidelines in detail and at some length,  
8 as I'm required to do, my thinking is not to impose a guideline  
9 sentence in this case, and to impose a sentence which is  
10 appropriately lenient.

11 So let me pause for a moment and hand out, Christine  
12 will hand out a copy of this chart. It may help you follow the  
13 discussion.

14 So preliminarily, again, I'm going to advise you that  
15 there is wide disagreement among the various parties as to the  
16 appropriate sentencing guidelines. You may already be aware of  
17 that. And if you look at this chart, among other things,  
18 you'll see that the U.S. probation department has determined  
19 the applicable guideline range in this case to be life  
20 imprisonment. It couldn't in any event be that, because the  
21 maximum possible sentence here is 105 years, which is in effect  
22 a life sentence. They've concluded that the offense level is  
23 46, and what we call the criminal history category is I.

24 And by contrast, for example, the defense has  
25 determined that the applicable guideline range in this case is

I5G3ATI1

## Sentencing

1 46 to 57 months of incarceration, based on an offense level of  
2 23, and a criminal history category of I.

3 The government has determined that the applicable  
4 guideline range in this case also to be life imprisonment,  
5 noting that the maximum possible sentence is 105 years, based  
6 on an offense level of 54, and a criminal history category of  
7 I.

8 The government has also provided an alternative  
9 calculation of the applicable guidelines range, which is 168 to  
10 210 months, based on an offense level of 35, and a criminal  
11 history category of I.

12 I should say here before I go further and start  
13 talking about my own guidelines calculations, that I am  
14 rejecting the idea completely that a life sentence for  
15 Mr. Atilla would be appropriate, fair, or reasonable, or even  
16 that 105 years would be an appropriate, fair, and reasonable  
17 sentence, and I hope that will become clear as the discussion  
18 proceeds.

19 So, I've determined that the applicable sentencing  
20 guideline range in this case would be 97 to 121 months based on  
21 an offense level of 30 and a criminal history category of I.  
22 And I remind you again that even though I'm going to spend a  
23 lot of time on these guidelines calculations, as I said at the  
24 outset, I do not intend to impose a guidelines sentence.

25 So I calculated the offense level as follows: I



1 started with a base offense level under 2S1.1(a)(1), and it is  
2 in my opinion 26. And I'll note that the defense and the  
3 government's alternative calculation agree that this is an  
4 appropriate starting point base offense level.

5 I then gave what is called an enhancement, two-level  
6 enhancement due to conviction under 18 U.S.C. Section 1956.  
7 All parties agree that this enhancement is appropriate. It is  
8 a plus two enhancement pursuant to United States sentencing  
9 guidelines section 2S1.1(b)(2)(B).

10 Then I gave another two-level enhancement for what's  
11 called sophisticated money laundering under United States  
12 sentencing guidelines 2S1.1(b)(3). Probation and the  
13 government agree with this enhancement.

14 And then I added plus two for what's called  
15 obstruction of justice pursuant to United States sentencing  
16 guidelines section 3C1.1. As to this, the government agrees  
17 with the enhancement, I think the probation department said  
18 that whether there was an enhancement here or not was in the  
19 Court's discretion.

20 I subtracted what's called a two-level enhancement,  
21 two-level reduction for minor role under United States  
22 sentencing guidelines section 3B1.2(b). And the defense agrees  
23 with this reduction.

24 So I came up with what we call an adjusted offense  
25 level of 30, and that yields a guidelines range of 97 to 121

1 months.

2 I'll note that the starting point for my calculation,  
3 that is to say United States sentencing guidelines 2S1.1(a)(1),  
4 is in accord with the starting point of the probation  
5 department, the defense, and also the government's alternative  
6 calculation.

7 So you can see, though, from the chart and from what  
8 I've said, that the parties diverge dramatically as to whether  
9 or which enhancements or reductions to or from the base offense  
10 level should be applied to reach the adjusted offense level.

11 In my determination of the adjusted offense level, I  
12 rejected the reduction proposed by the defense related to  
13 conspiracy under United States sentencing guidelines 2X1.1. I  
14 did not feel that this reduction applied, because the  
15 guidelines say that a reduction is warranted only if the  
16 defendant or a co-conspirator did not complete all the acts for  
17 the successful completion of the substantive offense or  
18 offenses.

19 The Court is agreeing with the defense that under U.S.  
20 sentencing guidelines 3B1.2, Mr. Atilla qualifies for a minor  
21 role reduction. This reduction is warranted because his role  
22 in the offenses, as will be discussed in more detail to follow,  
23 while important to the success of the conspiracies or schemes,  
24 he appears in my judgment to have been substantially less  
25 culpable than the -- they used the word "average," I'll use the

1 word "other participants" in the criminal activity.

2 This, of course, is difficult to assess in this case,  
3 since only Mr. Zarrab's case has been adjudicated. Mr. Atilla  
4 appears less culpable, certainly than Zarrab, and Mr. Atilla  
5 appears to have been following orders in large measure from his  
6 boss, Mr. Aslan, who was the general manager of Halkbank at the  
7 relevant times.

8 What we call application note three states in part:  
9 "The fact that a defendant performs an essential or  
10 indispensable role in the criminal activity is not  
11 determinative. Such a defendant may receive an adjustment  
12 under this guideline if he or she is substantially less  
13 culpable than the average participant in the criminal  
14 activity."

15 Mr. Atilla in my judgment was less culpable. Indeed,  
16 at one point in the testimony, Mr. Zarrab said that Mr. Atilla  
17 had thrown a wrench into the deal, and he also stated he,  
18 Mr. Zarrab, that in one context, that Mr. Atilla was not open  
19 to the idea that they were discussing. I'll get into that  
20 more.

21 I'm also rejecting the managerial supervisory  
22 enhancement under United States sentencing guidelines 3B1.1(b)  
23 proposed by the government, as Mr. Atilla's role in these  
24 offenses did not rise to the level of a manager or supervisor  
25 of the fraudulent scheme. He, Mr. Atilla, was deputy manager

1 and a senior executive of Halkbank, but that is not the same  
2 thing.

3 And Halkbank, by the way, I've mentioned a couple of  
4 times, it should be noted clearly was not named as a defendant  
5 in this case.

6 I think it's important that I explain that obstruction  
7 enhancement in a little more detail.

8 In determining that the obstruction or impeding of  
9 justice enhancement is required under United States sentencing  
10 guidelines 3C1.1, the Court finds that Mr. Atilla gave some  
11 false testimony under oath at trial, and I'm guided by the  
12 following guidelines provisions.

13 The provision is if the defendant willfully obstructed  
14 or impeded or attempted to obstruct or impede the  
15 administration of justice with respect to the investigation,  
16 prosecution, or sentencing of the instant offense of  
17 conviction, and (b) the obstructive conduct related to the  
18 defendant's offense of conviction and any relevant conduct, or  
19 a closely related offense, then the Court is instructed to  
20 increase the offense level by two levels. Which I've done.

21 What we call application note four provides examples.  
22 And one of them is providing materially false information to a  
23 judge or magistrate. Another one defines "material evidence"  
24 as evidence, fact, statement or information that, if believed,  
25 would tend to influence or affect the issue under

1 determination.

2           According to Second Circuit case law, where a  
3 defendant lies under oath, the application of a sentence  
4 enhancement is mandatory.

5           Based on the following examples of Mr. Atilla's what I  
6 believe was materially false testimony at the trial, I do find  
7 that there is a willful obstruction and that the enhancement is  
8 warranted.

9           So here's the first example. It has to do with what's  
10 called a private meeting or referred to in the testimony as a  
11 pull-aside. It is discussed in the transcripts of the trial  
12 dated December 12, December 18, 2017, and also December 19,  
13 2017. And there you'll find Adam Szubin, who, as I said  
14 before, is the former Director of the U.S. Treasury  
15 Department's Office of Foreign Assets Control, he testified,  
16 and I believe credibly, at trial that he had what's called a  
17 pull-aside for a one-on-one meeting with Mr. Atilla, in which  
18 he told Mr. Atilla that to the extent that Mr. Atilla was  
19 viewing this, that is to say, the discussion between Szubin and  
20 Atilla on that occasion, to the extent he was viewing that as a  
21 kind of routine discussion or routine visit to the U.S.  
22 Treasury Department, that U.S. Treasury Department officials  
23 were making across the globe, that was not the case. Szubin  
24 said that his trip to Turkey -- this was a meeting in Turkey --  
25 was a very conscious effort to visit Halkbank by Mr. Szubin,

I5G3ATI1

## Sentencing

1 because of concerns that were pretty serious about what was  
2 going on at Halkbank.

3 And that Mr. Szubin said, "We viewed them in a sort of  
4 category unto themselves, that I wasn't having this same level  
5 of conversation with any other bank around the world at that  
6 time. To in a sense underscore how serious this was," and this  
7 is Mr. Szubin talking, "to make sure that he," Mr. Atilla, "was  
8 not in doubt."

9 Mr. Szubin also testified that Mr. Atilla was the  
10 principal representative of Halkbank with whom he regularly  
11 communicated.

12 So the question was posed now to Mr. Atilla:  
13 "Q. Do you remember Mr. Szubin testifying about meeting you on  
14 February 12, 2013?

15 "A. Yes, I do remember.

16 "Q. And among other things, he said that he had a private  
17 pull-aside with you. Do you remember him testifying to a  
18 private pull-aside?

19 "A. Such a thing did not happen."

20 The next question was that I'm repeating:

21 "Q. It was at that meeting that Adam Szubin pulled you aside  
22 for a private conversation; isn't that right?

23 "A. No, I do not remember such a thing."

24 This was followed a little bit later by this question:

25 "Q. It is your sworn testimony that you never had a private

I5G3ATI1

## Sentencing

1 meeting with Adam Szubin on February 12, 2013?

2 "A. I'm saying this independent of any date. There was never  
3 any such private conversation or a meeting between me and the  
4 individual where he pulled me aside and warned me about  
5 something. That never happened on any date.

6 "Q. It never happened?

7 "A. That is correct. It never happened."

8 A second example that I relied upon was related to  
9 what's called the fake food system. The background here is  
10 that Mr. Zarrab testified, and I believe credibly, about  
11 discussing with Mr. Atilla and with Suleyman Aslan, Halkbank's  
12 general manager and Mr. Atilla's boss, about a discussion or  
13 discussions of a scheme or system for getting or unblocking  
14 Iranian money or proceeds that were at Halkbank. And it is  
15 during this conversation that that arrangement was more or less  
16 finalized.

17 Mr. Zarrab stated: "the meeting that was held between  
18 me, Mr. Suleyman and Mr. Hakan, in that meeting we finalized  
19 this final version of how this method," and now this is me  
20 adding, presumably referring to a method of unblocking Iranian  
21 proceeds, "would work, and how the system would be  
22 implemented."

23 So the question was asked:

24 "Q. After you came back, were you in any meetings with  
25 Mr. Zarrab in which you discussed with him that there was any

I5G3ATI1

Sentencing

1 fake food system?"

2 Which is to say pretending, but not actually sending  
3 food to Iran, in an effort to defeat the U.S. sanctions against  
4 Iran.

5 And the answer from Mr. Atilla was:

6 "A. Not after I came, not ever, did I talk about such a topic  
7 with Zarrab."

8 Mr. Zarrab also testified, again, I think credibly,  
9 that the idea of transferring money from a company called  
10 Volgam to Centrica, those are two companies controlled by  
11 Mr. Zarrab within Halkbank, came from Mr. Atilla.

12 And in the transcript, this is December 18, 2017, the  
13 question was posed:

14 "Q. Did you ever have a meeting with Mr. Zarrab in which the  
15 idea of transferring the money from Volgam to Centrica within  
16 Halkbank was from you?"

17 The answer from Mr. Atilla was: "No, we haven't."

18 Followed by a question:

19 "Q. Do you recall that he, Mr. Zarrab, said you asked whether  
20 he could supply bills of lading, because it was difficult to  
21 trace whether shipments actually occurred or not from bills of  
22 lading?

23 "A. We talked about bills of lading, but we didn't discuss the  
24 traceability of bills of lading."

25 So that's a second example in my opinion.



I5G3ATI1

## Sentencing

1           A third -- I'm using these categories, by the way.  
2       These are my usage. The third is called fake documentation.  
3       This regards documents that reflected that wheat was exported  
4       from Dubai and also reflected that ships that were to be  
5       utilized were too small capacity-wise to carry the purported  
6       cargo loads to Iran.

7           And in this instance, this third instance, Mr. Zarrab  
8       testified, I believe credibly, that Mr. Atilla advised him on  
9       the phone to be careful about the documentation regarding trade  
10      with Iran that was submitted to Halkbank. And that  
11      Mr. Suleyman Aslan had advised Mr. Zarrab that Mr. Atilla would  
12      be calling him to suggest changes to documents that were  
13      submitted to Halkbank, because that documentation reflected  
14      incorrect products and incompatibility between the quantity of  
15      goods allegedly shipped, and the capacity of the ships to  
16      handle those quantities.

17           I'm now discussing the December 4, 2017 transcript.  
18      Mr. Zarrab also testified that there was never any actual food  
19      sent to Iran.

20           On December 18, 2017, this question was posed perhaps  
21      by Ms. Fleming, I'm not sure, to Mr. Atilla:

22      "Q. Are you telling Mr. Zarrab in this call how to do fake  
23      documentation?

24      "A. Never.

25      "Q. Are you telling him, Mr. Zarrab, how to fix documentation

I5G3ATI1

## Sentencing

1 so you can help him with a fake food scheme?

2 "A. No. Absolutely not."

3 Mr. Atilla goes on to say in this answer: "Here I'm  
4 talking about examples. I'm giving examples about possible  
5 transactions. It's not the actual transactions. Actually,  
6 this conversation took place after his questions, and then he  
7 asked if they should look at the bigger vessels. I said look  
8 at both small vessels and big vessels. I'm giving examples  
9 here because of their submissions of the documents, what was  
10 showing big and small vessels, so I was just giving examples  
11 for the tonnage. The documents that they gave was their  
12 submissions. That was their submissions." I assume that  
13 refers to Mr. Zarrab. "Declarations, they were declarations,  
14 that's why I asked them to control their declarations."

15 A final example that I will give you relates to  
16 Mr. Atilla's contribution to the Iran sanctions avoidance  
17 scheme. Mr. Zarrab testified credibly that Mr. Atilla was very  
18 knowledgeable about the sanctions against Iran, and the  
19 Halkbank processes and procedures, and that Mr. Atilla made  
20 contributions in the form of suggested approaches to make the  
21 sanctions avoidance scheme appear that it was not violating the  
22 American sanctions.

23 On November 29, 2017, the transcript says the  
24 following. Mr. Zarrab stated:

25 "A. What I'm saying is at the beginning of the food trade,

1 where the method and the system was developed at Halkbank,  
2 Mr. Hakan Atilla had his contributions into that."

3 Then on December 6, 2017, Mr. Zarrab also testified  
4 that he discussed with Mr. Aslan the methods used which  
5 Mr. Atilla had provided guidance in and made additions to.

6 The question posed again by Ms. Fleming to Mr. Atilla  
7 and the answer Mr. Atilla gave was:

8 "Q. I'm 47 years old, and up until this point throughout my  
9 life, I have never been in a meeting or anywhere where  
10 violating the sanctions against Iran was discussed, and anybody  
11 pointed to Reza Zarrab or that I pointed to Reza Zarrab, and  
12 there was never any point where I had reached an agreement with  
13 Mr. Zarrab about anything about these things."

14 So those I raise by way of example to support the  
15 two-level enhancement. By the way, if the two-level  
16 enhancement were not given, in my opinion, the sentencing  
17 guideline range would drop to 78 to 97 months of incarceration.

18 So notwithstanding the fact that we've spent now  
19 considerable time this morning on the sentencing guidelines  
20 calculations, which I'm required to do at sentencing, as I said  
21 before, it is not my intention to impose a guideline sentence  
22 in Mr. Atilla's case.

23 And although I've considered each of the various  
24 parties' proposed guidelines calculations, as is clear, I also  
25 do not agree with the guidelines range calculations of I think

1 anybody -- probation, government or the defense. I do believe  
2 that, as I said before, a lenient non-guideline sentence is  
3 called for in this case for reasons which I'll turn to.

4 That is after a careful review of all of the 18,  
5 United States Code, Section 3553(a) factors. I think that  
6 evaluation clearly supports a non-guidelines sentence and says  
7 that a non-guideline sentence is appropriate in this case.

8 For one thing, a guideline sentence, including  
9 particularly those proposed by the probation department and the  
10 government in its first calculation, that appears to be based  
11 in significant measure on the multimillion dollar value or  
12 amounts of goods involved in the transactions which I've been  
13 discussing which are at the core of the Iran sanctions  
14 avoidance scheme.

15 Such a sentence would be excessively punitive in my  
16 opinion, and therefore, inappropriate, unreasonable, and  
17 unfair.

18 There is a case called United States v. Adelson in the  
19 District Court, the decision was written by Judge Rakoff and it  
20 was affirmed on appeal. It's become clear to me in this case  
21 that that reasoning would apply throughout.

22 Mr. Atilla was, as the defense suggests, somewhat of a  
23 cog in the wheel, and I would add at times a reluctant one at  
24 that. Or, perhaps better stated, as a person following orders  
25 in these sanctions evasion schemes. I do not believe that he

1 was a manager or a supervisor or a mastermind of the criminal  
2 enterprises.

3 And notwithstanding the fact that Mr. Atilla  
4 unquestionably furthered the Iranian sanctions evasion  
5 conspiracies, and that he was found guilty by a jury of five of  
6 six counts in the indictment, including four conspiracies, on  
7 or about January 3, 2018, Mr. Atilla was, in my opinion, at  
8 times a reluctant participant. And indeed, Mr. Zarrah said at  
9 one point that Mr. Atilla, as I mentioned before, threw a  
10 wrench in the deal. And I'm going to come back to this in a  
11 little while.

12 So I intend, in sentencing Mr. Atilla, to place more  
13 significance and greater emphasis and reliance upon the Section  
14 3553(a) sentencing factors other than only relying on the  
15 sentencing guidelines factors in the circumstances presented  
16 here. And they include, among others, the nature of the  
17 offense and the history and characteristics of Mr. Atilla, as  
18 well as, as I said before, the need for the sentence imposed to  
19 reflect the seriousness of the defendant's conduct, to promote  
20 respect for the law, to provide a just punishment, to afford  
21 adequate deterrence, to protect the public from further crimes.  
22 I've considered also avoiding sentence disparities, the kinds  
23 of sentences available, in order to come up with a sentence  
24 that I feel is sufficient, but not greater than necessary.

25 And the sentence I impose is intended to comport with

1 both federal law and with principles of fundamental fairness.  
2 It has been said in our courts that while a District Court must  
3 consider each 3553(a) factor in imposing sentence, the weight  
4 given to any single factor is a matter firmly committed to the  
5 discretion of the sentencing judge. That's from a case called  
6 United States v. Ciappetta, a Second Circuit decision from  
7 2008.

8 It's also been said that district judges have an  
9 obligation to consider whether a sentence other than a  
10 guideline sentence would be sufficient, but not greater than  
11 necessary, to serve the purposes of sentencing. Accordingly,  
12 district judges have an obligation to consider whether to  
13 depart from the guidelines sentencing range or to impose a  
14 non-guideline sentence in every case.

15 That comes from a case called United States v. Corsey,  
16 a Second Circuit decision from 2013.

17 And third, while in this category, before I turn to  
18 the specific other factors under 3553(a), even if I did agree  
19 with probation and the government guidelines ranges, that is to  
20 say a base level of seven plus a 30-level enhancement for loss  
21 amount, which I don't agree with, as I mentioned before, but  
22 even if I did, I would nevertheless find that a downward  
23 variance, that is to say a non-guideline sentence, would be  
24 appropriate.

25 In the case called United States v. Algahaim, Second

1 Circuit decision from 2016, where the Court stated: "Where the  
2 sentencing commission has assigned a rather low base offense  
3 level to a crime, and then increased it significantly by what  
4 is called a loss enhancement, that combination of circumstances  
5 entitles a sentencing judge to consider non-guidelines  
6 factors."

7 I refer you also to U.S. v. Johnson, 2018 W.L., it is  
8 an Eastern District of New York case, dated April 27, 2018,  
9 where the Court said, "I take seriously my responsibility under  
10 the Supreme Court and Second Circuit precedent to determine an  
11 independently reasonable sentence based on an individualized  
12 application of the statutory factors in 3553(a). Where  
13 application of the loss enhancement leads to a patently" --  
14 this is the judge from the Eastern District talking -- "a  
15 patently absurd sentence, it is appropriate for the Court to  
16 rely more heavily on the 3553(a) factors."

17 So, considering all those factors, here's what stands  
18 out: First, under the nature and circumstances of the offense  
19 or offenses, extensive litigation, including the written  
20 submissions of the parties and extensive motion practice in  
21 this case, the evidence presented at trial, and the jury  
22 verdict, all reflect that this is a serious case. The jury  
23 found, as I mentioned, four conspiracies, convicted Mr. Atilla  
24 of participating in four conspiracies, which in fact overlap,  
25 and one substantive crime of bank fraud. The very first

I5G3ATI1

## Sentencing

1 conspiracy charged in the indictment, and for which was one of  
2 those that Mr. Atilla was found guilty by the jury, was a  
3 conspiracy to defraud the United States and so-called Klein  
4 conspiracy.

5 In this connection, Mr. Cohen testified credibly that  
6 Mr. Atilla told Mr. Cohen that Halkbank had a banking  
7 relationship with Mr. Zarrab, and that it was a relatively  
8 small relationship, but that it was ongoing.

9 (Continued on next page)

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 THE COURT: (Continuing)

2 Mr. Cohen testified that Mr. Atilla assured us, the  
3 treasury officials, that there was nothing to be concerned  
4 about, presumably referring to Halkbank's dealings with  
5 Mr. Zarrab. There are other submissions that discuss this, but  
6 I will skip over those.

7 While the crimes that were committed were serious, the  
8 crimes of conviction do not involve crimes of violence or drugs  
9 or terrorism, etc., crimes which sometimes do warrant very  
10 stiff sentences, including sometimes life sentences such as  
11 those suggested by the probation department and proposed by the  
12 government in its primary and, I would suggest, alternate  
13 sentencing proposals.

14 The probation department's and the government's first  
15 proposed guidelines range are driven, it appears, in  
16 substantial part by the huge amounts of money involved and  
17 filtered through Halkbank through Zarrab companies and their  
18 related Halkbank accounts.

19 In other words, one principal reason that the  
20 government's primary and probation's only guidelines ranges are  
21 life imprisonment is they are based upon very substantial  
22 financial transactions in the hundreds of millions of dollars  
23 and include a low base offense level of 7 or 8, which is  
24 increased by 30 levels due to loss amount of more than \$550  
25 million.

1           It has been said that it is obvious that sentencing is  
2 the most sensitive and difficult task that a judge is called  
3 upon to undertake. Where the sentencing guidelines provide  
4 reasonable guidance, they are of considerable help to a judge  
5 in fashioning a sentence that is fair, just, and reasonable.  
6 But where the calculations under the guidelines are excessive  
7 on their face, a Court is forced to place greater reliance on  
8 the other considerations set forth in 3553(a) as carefully  
9 applied to the particular circumstances of the case and to the  
10 particular defendant. The cite is *United States v. Adelson*.  
11 That is the case I mentioned before.

12           In affirming Judge Rakoff in that case, the Second  
13 Circuit said that, after carefully considering those factors,  
14 the district court sentenced in that case Mr. Adelson to a  
15 sentence substantially below the applicable guideline range of  
16 life in prison. The record demonstrates that the district  
17 court's decision to impose a below-guidelines sentence was not  
18 a failure or refusal to recognize the guidelines, but rather a  
19 carefully considered reliance on the Section 3553(a) factors.

20           So that's the approach I'm taking here, although as  
21 noted above I did not in fact agree with the probation or the  
22 government's calculations in the first place, or the  
23 defendant's for that matter.

24           The 3553(a) factors, apart from various guideline  
25 ranges, clearly point to a significantly below guidelines

1 sentence. Mr. Atilla, as I've said now several times, was a  
2 reluctant participant and one who was following orders, albeit  
3 improper orders in my judgment.

4 Approximately one month before Mr. Atilla's trial  
5 began, Mr. Reza Zarrab, a Turkish Iranian gold trader, pled  
6 guilty to each of the six counts which were also brought  
7 against Mr. Atilla. Mr. Zarrab agreed to cooperate with the  
8 government, and in fact was one of the government's most  
9 important witnesses in Mr. Atilla's trial.

10 The Court -- based upon, among other things, the  
11 witness testimony at trial, corroborating evidence presented at  
12 trial, and the jury verdict and my own observations for that  
13 matter -- believed that Zarrab's testimony was credible, and it  
14 was largely unrefuted.

15 During his plea allocution on October 26, 2017,  
16 Mr. Zarrab summarized the various schemes or conspiracies  
17 involved here and the substantive counts, and he at trial did  
18 so by use of detailed diagramming, which he in fact made in the  
19 courtroom and by which he and others were able to transfer or  
20 free up millions upon millions of dollars of Iranian proceeds,  
21 primarily from the sale of Iranian oil. These proceeds were  
22 held at Halkbank among numerous accounts, although they were  
23 also blocked by the U.S. sanctions.

24 One end result of a series of intra, that is to say  
25 within-Halkbank transfers was that the funds in furtherance of

I5G3ATI1

## Sentencing

1 the schemes or conspiracies became unblocked and were then used  
2 to fund international payment obligations on behalf of Iran,  
3 thus avoiding the sanctions upon trade in Iranian products that  
4 was applicable.

5 Mr. Zarrab also credibly explained Mr. Atilla's  
6 involvement, sometimes commenting himself, Mr. Zarrab, upon  
7 Mr. Atilla's reluctance to be involved in the sanctions-evasion  
8 scheme.

9 The witness that was called named Douglas Sloan of  
10 Deutsche Bank explained credibly at the trial that the Iranian  
11 economy is primarily petroleum based. The petroleum industry  
12 is predominantly U.S.-dollar based, and in order for the  
13 Iranian economy to function, it therefore must conduct a lot of  
14 its business in U.S. dollars. That's in the December 12, 2017,  
15 transcript.

16 The charged conspiracies involved not only Mr. Zarrab  
17 and Mr. Atilla, but very importantly, they also involved  
18 Mr. Atilla's superior, Mr. Suleyman Aslan. At the time he was  
19 the general manager of Halkbank, and it appears that Mr. Aslan,  
20 not Mr. Atilla, called the shots, clearly.

21 The unrefuted evidence also shows that there were  
22 other conspirators far more significant than Mr. Atilla  
23 overall, including high Turkish government officials, and among  
24 them a former economy minister of turkey named Zafer Caglayan.  
25 And the testimony showed that substantial bribes were made by

I5G3ATI1

Sentencing

1 Mr. Zarrab to facilitate the sanctions-evasion conspiracy or  
2 schemes to Mr. Aslan and to Mr. Caglayan and perhaps others,  
3 but it also showed that Mr. Atilla neither received nor  
4 solicited any bribes. And it also shows, as I mentioned, that  
5 Halkbank was not charged as a defendant in this case.

6 So Iran was the chief beneficiary of the conspiracies  
7 because it was able to evade U.S. sanctions, Zarrab was a major  
8 beneficiary because he orchestrated and brokered the  
9 transactions and profited handsomely, and Halkbank was a  
10 significant beneficiary in terms of fees earned and the ability  
11 to serve as one of Iran's principal Turkish bankers.

12 In its letter dated April 13, 2018, to the Court, the  
13 government states that there were four principal categories of  
14 financial beneficiaries of the sanctions-evasion schemes.

15 One were Iranian government entities;

16 Two were Iranian banks;

17 Three, according to the government was Halkbank and  
18 Zarrab's network of companies; and,

19 Four were Turkish political and banking figures who  
20 facilitated aspects of the scheme, and other than Atilla, were  
21 paid from its proceeds. Perhaps the government was referring  
22 to Mr. Atilla as well, it's not clear.

23 Halkbank, although a significant beneficiary of the  
24 scheme was not, as noted, named as a defendant in the case.

25 Clearly, Mr. Atilla was not a beneficiary of these

I5G3ATI1

## Sentencing

1 schemes, and I think that is very significant in this  
2 sentencing. Mr. Atilla, who was a named defendant, in no sense  
3 was he a direct beneficiary of the schemes, and, as noted, it  
4 is undisputed that he was not the recipient of, nor did he  
5 solicit, any bribes paid by Zarrab.

6 In large measure Atilla appears to have been a person  
7 doing his job, sometimes reluctantly or hesitatingly, under the  
8 direction of the Halkbank general manager, Mr. Aslan, who did,  
9 in fact, receive bribes.

10 It is difficult to see what Mr. Atilla got out of  
11 these conspiracies and the bank fraud for which he was  
12 convicted apart from the serious predicament he has found  
13 himself in for the last 14 months.

14 Mr. Atilla was arrested and incarcerated on March 27,  
15 2017, at JFK Airport on his way back to Turkey after a U.S.  
16 business trip, one of approximately I would say ten to twelve  
17 that I believe he had made to the U.S. over his career.

18 As of today he's been incarcerated for approximately  
19 14 months. After nine months of incarceration, he was  
20 convicted following a jury trial of conspiracy to defraud the  
21 United States, what we've referred to as the Klein conspiracy,  
22 conspiracy to violate IEEPA, the International Emergency  
23 Economic Powers Act, and the Iranian Transactions and Sanctions  
24 Regulations. He was also convicted of bank fraud and of  
25 conspiracy to commit bank fraud and of conspiracy to commit

1 money laundering. Mr. Atilla was acquitted of the substantive  
2 money laundering count.

3 At Mr. Atilla's highly publicized trial, the  
4 government called 12 credible witnesses, including, among  
5 others, Mr. Zarrab, Mr. Cohen, Mr. Zubin, and Josh  
6 Kirschenbaum, formerly policy adviser to the U.S. Office of  
7 Foreign Assets Control, among others.

8 The defense, by contrast, called only two witnesses,  
9 one of whom was Mr. Atilla. Mr. Atilla under our system had  
10 every right to testify. Also under our system of justice, he  
11 also had every right not to testify. It was his choice.

12 In addition to Atilla's own testimony, the defense  
13 called an airlines company employee in order to corroborate  
14 Mr. Atilla's testimony that he was not on a particular  
15 telephone call because he was traveling at or about the time of  
16 the call.

17 The defense's affirmative case was patently  
18 insufficient to rebut the government's case or to create  
19 reasonable doubt in my opinion.

20 In addition to witness testimony in the main case, the  
21 government's case, significant documentary evidence was  
22 introduced by the government, including a wiretapped phone  
23 conversations, WhatsApp messaging communications, e-mails, and  
24 bank records.

25 Importantly, at the trial it became apparent to the

1 Court -- and I've said this several times now -- that  
2 Mr. Atilla was neither a chief architect nor a beneficiary of  
3 the various schemes to evade sanctions upon Iran. While he  
4 played a role in making things happen, he appears to have done  
5 what he did to further these schemes principally at the  
6 direction of his boss, Suleyman Aslan, at the time the general  
7 manager of Halkbank. He was following orders, as I said  
8 before.

9 Mr. Atilla nevertheless was partly responsible, but by  
10 no means principally responsible, for the organizing and for  
11 the success of this multi-million-dollar conspiracies related  
12 to the sanctions against Iran.

13 Here are some excerpts from the trial that perhaps  
14 better illuminate Mr. Atilla's role and involvement.

15 On November 30, 2017, the transcript shows that  
16 Mr. Zarrab testified about a phone conversation between himself  
17 and Mr. Atilla related to the food trade business that  
18 Mr. Zarrab had earlier discussed with Mr. Atilla's boss,  
19 Mr. Aslan. The food trade business was one aspect of the  
20 sanctions-evasion scheme.

21 Mr. Zarrab testified: As of this whole conversation  
22 Mr. Hakan Atilla was aware that we were going to be involved  
23 and we were going to be conducting food trade with Iran, that  
24 is, as of that day.

25 However, Mr. Zarrab said, At this time, Mr. Hakan



I5G3ATI1

## Sentencing

1 Atilla did not know that this transaction would not involve  
2 actual trade. This is me adding, for your information, as you  
3 probably know already, there was no food actually traded to  
4 Iran.

5 Now, back to Mr. Zarrab, So Mr. Hakan Atilla is trying  
6 to understand this during the phone conversation.

7 Mr. Zarrab goes on to say, Mr. Hakan Atilla had  
8 understood through his Halkbank general manager, Mr. Aslan, or  
9 perhaps through the branch that there would be real food  
10 traded, and now he's saying in this phone call that this is not  
11 as he had thought. So he's clearly stating that this does not  
12 match up with what he heard.

13 Mr. Zarrab testified as follows, referring to the  
14 conversation or meeting he had, Mr. Zarrab had, with Mr. Aslan  
15 after the phone call with Mr. Atilla.

16 This is Mr. Zarrab talking: I went and I told  
17 Mr. Suleyman that I had talked to Mr. Hakan, and that Mr. Hakan  
18 did not understand the matter completely, and I asked him how  
19 we should go about it.

20 And how did he respond? was the next question,

21 Mr. Zarrab said: The best I remember is that he gave  
22 orders to unblock the transaction and to go ahead and carry it  
23 out.

24 And here's the government asking: And do you remember  
25 who he gave these orders to?

I5G3ATI1

## Sentencing

1           And Mr. Zarrab responds: To Mr. Hakan Atilla.

2           And the government asks: How do you know that's who  
3 he gave the orders to?

4           And Mr. Zarrab responds: Because he called in my  
5 presence and he gave these instructions.

6           At that point I asked a few questions of Mr. Zarrab as  
7 follows:

8           I asked, who did? Who called?

9           And Mr. Zarrab said: Mr. Suleyman Aslan, your Honor.

10          And then I asked: And he called who?

11          Mr. Zarrab said: Mr. Hakan Atilla, your Honor.

12          And then I asked: And you were on the call, or you  
13 heard the call?

14          Mr. Zarrab said: I was face to face with Suleyman  
15 Aslan during a meeting at this time, sir.

16          Mr. Zarrab testified as follows, referring to a phone  
17 conversation between him and Abdullah Hapmani, an associate of  
18 Zarrab, that occurred after this meeting with Aslan.

19          And the government asked: Do you see where you say  
20 they placed a roadblock today, and I went there and had it  
21 removed?

22          Mr. Zarrab says: Yes.

23          The government says: What did you mean?

24          And Mr. Zarrab says: But just as I explained earlier,  
25 Mr. Hakan Atilla did not know about this matter as of the first

I5G3ATI1

## Sentencing

1 time we had met. So I approached Mr. Suleyman regarding this  
2 matter and came to a solution.

3 Mr. Zarrab goes on to say: Mr. Suleyman called  
4 Mr. Hakan in my presence and told him that they will do this  
5 business, and I'm conveying to Mr. Zarrab -- Zarrab is  
6 talking -- Mr. Happani his associate.

7 And then the government says: Do you see where you  
8 say Hakan Atilla threw a wrench in the gears?

9 This is a question posed by the assistant: Do you see  
10 where you say Hakan Atilla threw a wrench in the gears?

11 Mr. Zarrab says: Yes.

12 The government says: What did you mean by that?

13 Mr. Zarrab says: Just as it was heard in the first  
14 phone conversation earlier, Hakan Atilla was not open to this  
15 idea, for it to be conducted.

16 Zarrab goes on to testify about another phone  
17 conversation.

18 The assistant asks this question: Do you next see  
19 where Mr. Aslan says, No, we don't have a problem in the food?  
20 Do you have a problem with the method posed by Hakan Atilla?

21 Then he, Aslan goes on to say, related to the food  
22 trade payments: Do you see that?

23 And Zarrab says: Yes, I see that, sir.

24 The assistant asks then: What did you understand him  
25 to mean?

I5G3ATI1

## Sentencing

1           Zarrab says: We had held conversations about how the  
2 food transactions would be handled with the bank, what methods  
3 would be used, and he's asking whether the latest method that  
4 we had reached an agreement on, that whether I had any problems  
5 with that. And this is the method that Mr. Hakan Atilla had  
6 also provided guidance in and made additions to and that  
7 provided -- and he's asking me if this last template was  
8 something that I agreed with and if there are any issues that I  
9 may have with it.

10           So Mr. Atilla, in addition to his arrest and  
11 incarceration in the United States on his way back to Turkey,  
12 has been a subject of widespread international focus. As any  
13 person confined pretrial, he was separated from his family, his  
14 colleagues and his friends in Turkey, and his life has, I would  
15 suggest, been turned upside down.

16           Atilla should, given the nature and the circumstances  
17 of these offenses, particularly his relative role in them,  
18 among other factors to be considered, in fairness receive a  
19 lenient, nonguidelines sentence.

20           The second 3553(a) factor is called the history and  
21 the characteristics of the defendant.

22           Mr. Atilla appears to have led an exemplary life in  
23 Turkey apart from this case. This is, in my view, an important  
24 3553(a) factor for us to consider.

25           Mr. Atilla is a citizen of Turkey.

1 He's 47 years a old.

2 He's married, has an adult son.

3 He's been employed by Halkbank for his entire career.

4 He has a bachelor's degree in economics from Gazi  
5 University in Ankara, Turkey.

6 After he graduated, Atilla entered the Turkish air  
7 force as a private and was honorably discharged.

8 As noted, he has worked, loyally I would suggest, at  
9 Halkbank virtually all of his adult life in increasingly  
10 important capacities and positions and for approximately 23  
11 years.

12 In 2007, Mr. Atilla became the head of financial  
13 institutions and investor relations, and in 2011 he became a  
14 deputy general manager of international banking. And as of  
15 2012, Mr. Atilla was a deputy general manager, and he reported  
16 directly to Mr. Suleyman Aslan, then the general manager of  
17 Halkbank.

18 By all accounts, as I've noted above, Mr. Atilla is  
19 skilled in and knowledgeable about the U.S. sanctions program.  
20 He is fluent in English, although as a safeguard the Court has  
21 always used Turkish interpreters throughout these proceedings  
22 to ensure that Mr. Atilla understands each word that is spoken.

23 He's also been a model prisoner during his  
24 incarceration. He received a positive MCC report, Metropolitan  
25 Correctional Institution, with outstanding performance reviews

I5G3ATI1

## Sentencing

1 from his unit team leader, who concluded that he is a diligent  
2 worker and that he demonstrates positive leadership skills  
3 among his pierce.

4 Mr. Atilla is extremely well regarded by his friends  
5 and family and his Halkbank colleagues.

6 The Court very often receives at sentencing letters of  
7 support, but less often are there as many -- by the way, in  
8 this case these are the letters I've received on his behalf.  
9 There are 101 of them I believe. But these letters are from a  
10 foreign country. As in this case, I've never received letters  
11 which are quite I think as insightful, certainly never in this  
12 amount, and never in this detail.

13 Letters were sent by family, friends and work  
14 colleagues, most in Turkish. I believe they were translated by  
15 the official court interpreters. That's my understanding. I  
16 found them to be of great help in sentencing and important in  
17 assessing this factor, history and characteristics of the  
18 defendant.

19 The letters appear sincere and insightful. I have  
20 read them, yes, as a judge with eyes wide open.

21 The letters, to be sure self-selected, reflect well  
22 upon Mr. Atilla and they also reflect well upon the Turkish  
23 people who sent them. Mr. Atilla is widely respected, as  
24 described in these letters. He is an exceptional family man  
25 and a citizen who is married to, if I pronounce this correctly,

I5G3ATI1

## Sentencing

1 Burcin, who also works at Halkbank and has a son, Burcan, who  
2 is attending college.

3 Mr. Atilla's parents also wrote in support of their  
4 son, understandably. They are retired and are also former  
5 state employees. His father, Mehmet Isik, is 74. His mother  
6 is also in her 70s, Ayse.

7 Mr. Atilla is consistently described as a person who  
8 is devoted to his family, successful in his career, loyal to  
9 his employer. He's described as kind, gentle, modest in  
10 lifestyle and considerate of and helpful to others. He has  
11 never, according to the letter writers, had any criminal issues  
12 in his past.

13 These letters are from seemingly ordinary Turkish  
14 people who appear well able to describe and explain who  
15 Mr. Atilla is, namely, the characteristics of the defendant.  
16 They cannot excuse Mr. Atilla's role in the sanctions scheme,  
17 notwithstanding that some expressed their disbelief that he  
18 could be involved in any unlawful activity.

19 The letters, in addition to supporting Mr. Atilla,  
20 well represent ordinary Turkish people as far as I can  
21 accurately perceive them. They clearly suggest that people to  
22 people, which is to say from Turkish citizen to American  
23 citizen, from that, one would not conclude that U.S. and  
24 Turkish relations would be anything but close, open, friendly  
25 and direct.

1           Indeed, it is very difficult to reconcile the  
2 collaborative, polite, informative kind and generous letters of  
3 support for Mr. Atilla from ordinary Turkish citizens with the  
4 sometimes very harsh rhetoric from Turkish government officials  
5 about this case.

6           All of the letters are respectful.

7           For example, one starts, "Honorable Judge Berman, as a  
8 lawyer in a southeast European country I am convinced that the  
9 American legal system is a real and fair system which  
10 contributes to justice being served. I hope that this is the  
11 case in this case and that justice will be served as well."

12           Another example, someone writes, "I sincerely believe  
13 and have complete trust in American justice and society.

14           So let me read you one or two of these letters in  
15 whole.

16           It is addressed to your Honor and it says, "I am a  
17 49-year-old Turkish republic citizen. I have a wife and a  
18 12-year-old son, and I have been working at Halkbank for 19  
19 years. We've been working in the same bank as Mr. Mehmet Hakan  
20 Atilla for the last ten years, and we have been frequently  
21 interacting with each other at work regardless of working in  
22 the same department or not.

23           "Mr. Atilla is a dutiful, kindhearted, truthful,  
24 honest person who values justice. He has established a  
25 merit-based management approach in all the departments he had



1 managed.

2 "Your Honor, Mr. Atilla is a good person in the exact  
3 sense that it is often mentioned in the Torah, the psalms and  
4 our holy book, the Koran. Hakan Atilla carries all the  
5 required desired common values of humanity. Mr. Atilla is one  
6 of the few people I know whose whole private life consists of  
7 his wife and his son. He is respectful and loving to the  
8 people around him and respects the ideas and values of  
9 everyone.

10 "Mr. Hakan Atilla was the person who was by my side at  
11 my mother's and father's funeral, whom I lost very suddenly and  
12 unexpectedly. The funeral was held in another city, but he  
13 still attended without caring about the distance and the time.

14 "Mr. Hakan Atilla believes in fate. That is why he  
15 would never divert from the truth mentioned in the holy books,  
16 and he would always defend his values with the truth.  
17 Mr. Atilla is a person who says I will always be honest and  
18 stick by the truth regardless of the consequences.

19 "Mr. Atilla is a person whom he and his family are  
20 always in our prayers. We pray so that he can reunite with his  
21 family as soon as possible. Mr. Hakan Atilla is the subject of  
22 all our talks and conversations, even if he is not present.  
23 The support and love of the Turkish people are with him.  
24 Nobody can say that he has behaved immorally or treated someone  
25 unfairly, nor has performed malpractice or hurt anybody.

1 Unlike some people, he would never go against his values.

2 "Your Honor, we are people who believe in destiny. We  
3 assume that you believe in it too. Your Honor, life is short.  
4 We believe that doing the right thing for this person who has  
5 never digressed nor diverted from what is right and who has  
6 never done anything haram, or, in other words, unkosher, like  
7 spending a single lira belonging to someone else, as it has  
8 been stated before in the process and which is also considered  
9 a pillar of our religion.

10 "It should be an easy decision. We want to believe  
11 that you have the tender heart to make a decision that would  
12 reunite him with his spouse and child and all of us.

13 "One can write and say many more things about  
14 Mr. Atilla. We believe in justice and in the truth and in what  
15 is right. We believe with all our hearts that a judge with  
16 such expertise as yourself will not deny or deprive us from  
17 such compassion and mercy. May God almighty, Allah, be the  
18 companion and guide to us all."

19 That is one of, as I said, 101.

20 Here are excerpts from some of the other letters.  
21 "He" -- the "he" in all of these refers to Mr. Atilla -- "is  
22 one of the most successful and esteemed high-level bank  
23 executives in our country, and he is well respected within the  
24 whole banking community."

25 Another letter says, "Mr. Atilla extends a helping

I5G3ATI1

## Sentencing

1 hand to everyone around him whenever they face difficulties, be  
2 it financial or otherwise. If there is anything he can do to  
3 help, he tries to do it. In other words, if he had just one  
4 slice of bread, he would gladly share it with others. He helps  
5 everyone, anyone in need without ulterior motive."

6 Another letter says, "At the time when my father had a  
7 very serious operation in Istanbul, he Hakan stayed with us  
8 through the whole process. We cannot forget the incredible  
9 support he gave us with his continuous words of comfort. He  
10 even gave us the keys to his apartment in case we needed it.  
11 In fact, I watched him comfort other patients' relatives and  
12 some people he didn't even know at the hospital. He was always  
13 by our side and there for us."

14 There are many other examples that I could read.

15 I'll read one final from these letters.

16 "Hakan was not one of those greedy and ambitious  
17 people who would want to do everything he gets his hands on.  
18 Having a happy and peaceful life was very important for us.  
19 Therefore, he always avoided being greedy."

20 So these are the letters from the Turkish people that  
21 argue in my judgment persuasively not only because of the  
22 letters, but for leniency and fall under the 3553(a) category  
23 called history and characteristics of Mr. Atilla.

24 By the way, there is a letter, as you are all aware,  
25 from the Turkish government in this case. It's a short letter

1 sent from the Turkish government to the U.S. government which  
2 reads: "Accordingly, and without admitting or corroborating  
3 any of the conduct alleged in the indictment, the embassy" --  
4 this is I think from the Turkish embassy in the United States  
5 to perhaps the State Department -- "the embassy kindly requests  
6 the esteemed department's assistance for Mr. Atilla's urgent  
7 release." Dated October 23, 2017 from the Turkish embassy in  
8 Washington.

9 So, moving along to the third 3553(a) factor, the need  
10 for the sentence imposed to reflect the seriousness of the  
11 offense, to promote respect for the law, and to provide just  
12 punishment.

13 I will take one at a time in somewhat less detail than  
14 we have been taking up until now.

15 There is no doubt in the Court's opinion, as noted,  
16 that the Iran-sanctions-evasion schemes, conspiracies and its  
17 participants, and those schemes included the Klein conspiracy  
18 against the United States and, in fact, meetings with Atilla  
19 and U.S. officials in Washington, D.C. at the U.S. Treasury  
20 Department, I believe it's a serious matter. It depended upon  
21 and impacted, as with other sanctions cases, the U.S. financial  
22 system and important issues of U.S. domestic security and U.S.  
23 relations to its historical allies and to those who may be U.S.  
24 antagonists.

25 The scheme in this case involved many millions of

1 dollars, largely in the form of Iranian oil proceeds held at  
2 Turkey's state-owned Halkbank.

3 At the same time, the responsibility for and the  
4 impact of these offenses cannot all be attributed only to  
5 Mr. Atilla. Mr. Aslan, Mr. Zarrab, Halkbank, Iran, others had  
6 far more to gain financially and appear to have been far more  
7 crucial players in the behavior we have been discussing.

8 The prosecutors here recognize that the advisory  
9 sentencing guidelines range they propose is effectively a life  
10 sentence, which has but rarely been imposed in cases most  
11 analogous to this one. And I note again that there is a  
12 statutory maximum term of incarceration here of 105 years.

13 The government says that, pursuant to a case entitled  
14 *U.S. v. Dhafir*, a Second Circuit decision from 2009, the Court  
15 can elect to adopt a more flexible and lower proposed  
16 guidelines sentence. According to the government, under that  
17 case, the Court has discretion to consider the guideline range  
18 in the government's opinion of 168 to 210 months and also to  
19 consider the sentencing maximum and also to consider the  
20 Section 3553(a) factors to determine an appropriate sentence.

21 The defense counters the government and says that the  
22 sentence here should be directed at vindicating and protecting  
23 national security interests in a way that is consistent with  
24 other dispositions for sanctions violations that have involved  
25 other banks and the bankers who work for them, not on the basis

I5G3ATI1

## Sentencing

1 of some imagined amount of loss for funds allegedly laundered  
2 as the presentence investigation report would have it. The  
3 defense goes on to say that Hakan has now spent 12 months in  
4 detention more than 5,000 miles from his wife, his only son,  
5 his aging parents, his family, and friends. Mr. Atilla was a  
6 banker who was at most -- this is the defense talking -- a  
7 small cog in Zarrab's massive scheme, and was certainly not the  
8 leader of the scheme.

9 Moving on to affording adequate deterrence to criminal  
10 conduct. The government argues that deterrence is an important  
11 factor here to send a message to "a multitude of foreign banks  
12 and businesses tempted to support a sanctions-evasion regime  
13 while still enjoying the privilege of access to the United  
14 States economy and financial system."

15 The defense responds that this prosecution in itself  
16 will doubtless have a substantial impact on foreign bankers who  
17 will be deterred from misconduct by Hakan's -- Mr. Atilla's --  
18 sudden arrest and detention and the obvious long arm of U.S.  
19 law enforcement authorities.

20 Deterrence is obviously an important 3553(a) factor in  
21 this case, general deterrence even more important than specific  
22 deterrence. The Court believes that the likelihood that  
23 Mr. Atilla would commit the kind of crimes for which he stands  
24 convicted or, for that matter, any crime following this case is  
25 virtually nonexistent. General deterrence mostly will be

1 served by this prosecution and sentence.

2 Then moving to the issue of protecting the public.  
3 Mr. Atilla does not in my judgment reasonably pose a threat to  
4 commit any other crimes. The unlawful actions taken in this  
5 case were largely at the behest of others, including his boss,  
6 Mr. Aslan, and appear to be out of character except perhaps as  
7 they may have been driven by loyalty to his career employer,  
8 Halkbank, and to his country.

9 The next factor, providing defendant with needed  
10 medical and other care. Mr. Atilla appears to be a very well  
11 balanced, highly educated intelligent family man. He has  
12 received some medical treatment while incarcerated, and  
13 probation is aware that Mr. Atilla has been affected  
14 emotionally of course, as anyone would be, by his  
15 incarceration. His family no doubt will secure appropriate  
16 additional medical treatment for him at such time as he gets  
17 home to Turkey.

18 The Court will recommend that Mr. Atilla continue to  
19 receive appropriate medical treatment while incarcerated.

20 Turning next to the kinds of sentences -- these are  
21 all the 3553(a) factors -- the kinds of sentences available.  
22 We've pretty much covered this topic already today, and I will  
23 soon move to the next phase of sentencing, which is to hear  
24 from the parties and Mr. Atilla if he wishes and to preview the  
25 sentence.

1           But, before that, it's necessary that I mention that  
2 the sentences on each count of conviction will in my  
3 determination run concurrently.

4           The statutory maximum term of imprisonment on Count  
5 One is five years.

6           The statutory maximum term of imprisonment on Counts  
7 Two and Six is 20 years.

8           The statutory maximum term of imprisonment on Counts  
9 Three and Four is 30 years.

10          There are no mandatory minimum terms of imprisonment  
11 in this case.

12          The total statutory maximum term of imprisonment, as I  
13 have said before, for all counts is 105 years, and that is if  
14 the maximums were to be imposed consecutively rather than  
15 concurrently, which will not happen here. If the sentences  
16 were to run concurrent, the maximum would be dramatically lower  
17 at 30 years.

18          With regard to what we call supervised release, which  
19 is the period of supervision following release from  
20 incarceration, Counts One, Two and Six have a sentencing  
21 guidelines range of one to three years of supervised release;  
22 Counts Three and Four have a guidelines range of two to five  
23 years.

24          Counts One, Two and Six have a statutory maximum of  
25 three years, and Counts Three and Four have a statutory maximum



1 of five years.

2 In my judgment supervised release is unnecessary and  
3 inappropriate here. I'm not planning to impose any term of  
4 supervised release. It's the Court's intention that, upon  
5 completion of Mr. Atilla's term of incarceration, that he will  
6 be free to reunite with his family and colleagues in Turkey.

7 Then the fifth factor, the kinds of sentence in the  
8 sentencing range established in guidelines. As previously  
9 mentioned several times, the Court has calculated the  
10 guidelines range to be 97 to 121 months based on an adjusted  
11 offense level of 30 and a criminal history category of I.

12 I have scrutinized all of the 18 U.S.C. Section  
13 3553(a) factors both before I came on the bench and during this  
14 proceeding, and they all lead in my judgment to a nonguidelines  
15 sentence and one which is appropriately lenient in nature.

16 As to policy statements issued by the Sentencing  
17 Commission, no Sentencing Commission policy statements other  
18 than as reflected above or in the previous discussion are known  
19 to the Court, and neither the defense or the government have  
20 brought any to my attention.

21 And then the question of avoiding unwarranted sentence  
22 disparities among similarly situated defendants. I have  
23 studied closely counsel's computations and proposed sentences.

24 The parties acknowledge that this case presents a  
25 somewhat unique set of circumstances. Comparators are not

1 readily available, nor are they dispositive. The only in-case  
2 comparator is Mr. Zarrab, who has not been sentenced, and his  
3 circumstances as a cooperator and a major role player are very  
4 different from Mr. Atilla's in any case. The government  
5 acknowledges that the crimes that Mr. Atilla committed are  
6 without ready comparison. The government also argues that the  
7 individuals whose sentences the defense relies upon, each bear  
8 substantial differences from Mr. Atilla. The government  
9 acknowledges that the defendants in those other cases cited by  
10 the defense are not squarely comparable to Mr. Atilla.

11 The defense contends that the government's prosecution  
12 of Mr. Atilla is a notable departure from the long line of  
13 cases in which banks and bankers accused of violating IEEPA or  
14 otherwise engaging in activities designed to avoid sanctions  
15 were not prosecuted. Defense counsel also point out that the  
16 individuals who have been convicted of IEEPA violations have  
17 often received downward variances from the guidelines, and they  
18 cite among other things, the *Banki* case, where there was a 63-  
19 to 78-month guideline range and a 30-month sentence was  
20 imposed.

21 They also cite *Amirnazmi*. That's another case where  
22 the guideline range was 97 to 121 months and where a 48-month  
23 sentence was imposed.

24 And they cite *Sarvestani*, where the guideline range  
25 was 57 to 71 months and a 30-month sentence was imposed. In

1 that case, by the way, *Amirnazmi*, which is a Third Circuit  
2 decision from 2011, the defendant was a dual citizen of the  
3 United States and of Iran. He was convicted after a jury trial  
4 of multiple violations of IEEPA of making false statements to  
5 federal officials and of bank fraud. As I said, he received a  
6 48-month sentence. He was a chemical engineer who marketed a  
7 software program to Iranian people and entered into agreements  
8 with various Iranian entities in which he pledged to provide  
9 technology to facilitate the construction of multiple chemical  
10 plants.

11 In the *Banki* case, Judge Keenan was the trial judge.  
12 The defendant there was a naturalized U.S. citizen who was  
13 convicted after a jury trial of a conspiracy to violate IEEPA  
14 and of a substantive offense of IEEPA violation and the Iranian  
15 transactions regulations because he conducted an unlicensed  
16 money transmitting business and made false statements to  
17 federal officials.

18 In the *Sarvestani* case, presided over by Judge  
19 Gardephe, the defendant was a non-U.S. citizen who pled guilty  
20 to conspiracy to violate IEEPA. The defendant operated  
21 multiple companies that procured U.S.-made goods for Iranian  
22 companies by shipping the goods through third-party countries.

23 The government here it should be noted also argues  
24 that the sanctions matters that the defense relies on are  
25 distinguishable because they often involved, this is a quote

I5G3ATI1

## Sentencing

1 from the government "significant acceptance of responsibility,  
2 extensive internal investigations that were shared with  
3 investigating authorities, the adoption of meaningful  
4 compliance reforms, disciplining officers and employees who  
5 directed or abetted the sanctions-violating conduct, the  
6 payment of substantial monetary penalties reflecting the  
7 seriousness of the offense conduct, and ongoing commitments to  
8 cooperate with law enforcement in investigations."

9 (Continued on next page)

1           THE COURT: (Continuing) And according to the  
2 government, none of these are present here.

3           So given all the 3553(a) factors which are analyzed  
4 above, I conclude, again, as I mentioned, that leniency in  
5 sentencing is called for in Mr. Atilla's case.

6           Turning to the need to provide restitution, according  
7 to probation and the parties, restitution is not an issue in  
8 this case, and I do not intend to impose restitution as part of  
9 the sentence.

10          As for a fine, the government requests a monetary fine  
11 within the guideline range of 50,000 to \$500,000. The defense  
12 does not make any recommendation for a fine, and the probation  
13 department does not recommend a fine either, because it  
14 concluded that, to the probation department, Mr. Atilla does  
15 not appear to be able to afford to pay a fine. In any event, I  
16 do not intend to recommend a fine against Mr. Atilla. I don't  
17 thinking it is warranted or appropriate, based largely upon the  
18 recommendation of probation.

19          So I'm going to take a short break and then move to  
20 the next part of the proceeding, which is to talk about what we  
21 call the presentence investigation report, which is a  
22 confidential document and to preview the sentence that I intend  
23 to impose.

24          So before the break I'm going to ask Christine to hand  
25 out just to the lawyers, because these are confidential

1 matters, a chart that I prepared which discusses all the  
2 defense objections to the presentence report, and my resolution  
3 of those objections. So you can take a minute or two.

4 I will say this about the objections. They are  
5 generally not made or perhaps not even appropriate if used, as  
6 many are in this case, as an opportunity by defense counsel to  
7 reargue prior rulings and/or to dispute the jury verdict. My  
8 evaluation is that of the 44 objections that were presented,  
9 really only the objections to paragraphs 65 and to 67 impact  
10 the calculation of Mr. Atilla's offense level and guidelines  
11 range.

12 But you'll see that I did deal with every one of the  
13 objections, and as to the guideline range, it's going to be a  
14 non-guideline sentence. So, they don't have much impact there  
15 either. But you can look these over. These are just for the  
16 attorneys and Mr. Atilla. So five minutes, we'll resume.

17 (Recess)

18 (In open court)

19 THE COURT: We're moving now to what is called the  
20 presentence report which I've received, it was approved  
21 April 4, 2018, together with an addendum of that same date.

22 I've received correspondence from the defense dated  
23 3/26/18, 3/30/18, 4/13/18, 5/8/18, 5/4/18. I believe I have  
24 these dates right. And 5/11/18. And that's from the defense.  
25 Hold on one second.

I5G3ATI3

## Sentencing

1           So let me go over that again. These are the principal  
2       submissions that I received from the defense, 3/26/18, 4/13/18,  
3       and if there are ones that I missed I'll ask you and you can  
4       supplement this list. 3/30/18, 5/8/18, that's from defense.  
5       From the government, 4/4/18, 4/13/18, 5/14/18 and May 11, '18.  
6       I think those are the principal ones.

7           Any that I missed, starting with the government?

8       MR. LOCKARD: No, your Honor.

9       THE COURT: How about defense counsel?

10      MR. ROCCO: No, your Honor.

11      THE COURT: Okay. So, Mr. Rocco, have you and  
12      Mr. Atilla had the opportunity to read and discuss the  
13      presentence investigation report in this case, including its  
14      addendum and sentencing recommendation?

15      MR. ROCCO: We have, your Honor.

16      THE COURT: Mr. Atilla --

17      MR. ROCCO: I have reviewed it with Mr. Atilla, and  
18      Mr. Atilla and I have discussed it and reviewed it and the  
19      addendum.

20      THE COURT: And the addendum and sentencing  
21      recommendation?

22      MR. ROCCO: Yes.

23      THE COURT: Just for the record I'm going to ask  
24      Mr. Atilla if he went over those materials with you.

25      THE DEFENDANT: Yes, I read, your Honor.

1           THE COURT: Okay. Do you have any remaining  
2 objections or any objections remaining to the presentence  
3 investigation report?

4           MR. ROCCO: Your Honor, Ms. Fleming is going to  
5 address a technicality, Judge.

6           MS. FLEMING: Of course. Judge, we'll rest on  
7 whatever objections we've already made. We need to add one  
8 that we had not put in writing related to the obstruction,  
9 which is only to add for the record that there was a conscious  
10 avoidance charge at the trial that might relate to perjury at  
11 trial, and we think we need to put that on the record. That  
12 may help us with regard to an allegation -- and we  
13 appreciate --

14          THE COURT: I don't understand.

15          MS. FLEMING: We understand that the Court has made  
16 very detailed findings and put them on the record, and you  
17 found that Mr. Atilla committed perjury at trial, and you said  
18 as a basis for obstruction. And you've made your findings very  
19 clear. We wanted --

20          THE COURT: I did that when?

21          MS. FLEMING: A few minutes ago, earlier today. When  
22 you were going through and indicating your preliminary findings  
23 with regard to it.

24          THE COURT: So if you could just indicate, that's what  
25 I'm --



1 MS. FLEMING: You did that earlier today.

2 THE COURT: No, I know, but you're referring to?

3 MS. FLEMING: When you were talking about the adding  
4 two points for an obstruction of justice enhancement under the  
5 guidelines, so we just wanted to put, we also wanted to add --

6 THE COURT: Because his testimony was at variance with  
7 other testimony.

8 MS. FLEMING: Yes. It was at variance with other  
9 testimony. And because of the jury verdict, it did not mean  
10 that the jury did not accept all of his testimony, because  
11 there was a conscious avoidance charge.

12 The only other objection, when I looked through the  
13 addendum that the Court just handed out, on page 12, without  
14 going to what it is, on paragraph 36, and without arguing with  
15 the Court, we just want to note an objection --

16 THE COURT: This is the objections to the presentence  
17 investigation report?

18 MS. FLEMING: This is your schedule that you just  
19 handed out.

20 THE COURT: It's called "Defendant's Objections Dated  
21 April 13, 2018." Is that the document?

22 MS. FLEMING: That's the document. That's correct.  
23 Your Honor, without reading it, because I know it is a  
24 sensitive document, but if you look on page 12, in paragraph  
25 36, where the Court is going to add several sentences to

I5G3ATI3

## Sentencing

1 paragraph 36 in response to our objection and the government's,  
2 we just noted an objection to those additional sentences. We  
3 don't think that is what the evidence is.

4 THE COURT: Okay. Mr. Atilla, do you have any further  
5 objections yourself?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: I'm sorry?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: No. Okay.

10 So I will, which is our practice, return the  
11 presentence report to probation.

12 And at this point I'm happy to hear from defense  
13 counsel, from Mr. Atilla, and from the government before I  
14 preview the sentence I intend to impose.

15 MR. ROCCO: Your Honor, if I may.

16 THE COURT: Do it at the podium if you'd like.

17 MR. ROCCO: I will.

18 THE COURT: Okay.

19 MR. ROCCO: Your Honor, thank you for the extensive,  
20 very detailed, comprehensive and thoughtful review that your  
21 Honor did of the record in this case. You stole my thunder,  
22 Judge. And I learned a long time ago, at least I hope I  
23 learned a long time ago that the art of litigation is the art  
24 of knowing when to shut up.

25 But, I do say, if I may, Judge, that one of the things

1 that I was going to say in the lengthy presentation here this  
2 morning that I've abandoned is that what we need to show the  
3 world in proceedings such as this, especially today, especially  
4 now, is that we Americans aren't bullies. That we are a  
5 generous and compassionate people. That although we are a  
6 nation of laws, justice is tempered by mercy. Our judges are  
7 as courageous as they are just, and as compassionate as they  
8 are wise.

9 What I heard this morning, your Honor, I think  
10 perfectly embodies those thoughts. And I'm moved by them and  
11 I'm sure everybody in this courtroom is moved by them. And I  
12 thank you for them and Mr. Atilla thanks you for them.

13 I have nothing else to say, Judge. You have  
14 reflected, I think, a deep understanding of what happened here.  
15 And we ask you in imposing sentence, to understand that  
16 Mr. Atilla's never sought any special treatment, there has been  
17 no political interference. Plainly, nobody's ever offered to  
18 do anything for him. He stands before the Court, and he cannot  
19 say, he can only ask, that your Honor temper your judgment with  
20 mercy. We're asking you to open your heart, and to send him  
21 home to his family and to his countrymen as soon as possible.  
22 Thank you, Judge.

23 THE COURT: Mr. Atilla, did you want to add something?

24 MS. FLEMING: Mr. Atilla wrote out something in  
25 Turkish and then we had it interpreted. He's asked that I read

1 it. Is that acceptable to the Court?

2 THE COURT: Absolutely.

3 MS. FLEMING: Just before I do, if the Court will  
4 allow me just one moment of personal privilege if it will.  
5 I've done this for a lot of years, both at this table and at  
6 that table. And this has been a very difficult and hard-fought  
7 trial, as the Court saw.

8 I think everybody has shown real civility to each  
9 other, and I think that the lawyers have all behaved very  
10 professionally. Of course all the courtesies of the Court were  
11 always present.

12 But I really want to say, I know I'm speaking for  
13 everyone at our table, that it's been a privilege to represent  
14 Mr. Atilla. What your Honor read in those letters is something  
15 we have all seen over the last year under extremely difficult  
16 circumstances by him. He has really been just a gentleman  
17 through and through. I think the Court has seen it, and we  
18 know that. So I wanted to say that personally.

19 So on behalf of Mr. Atilla, here is the English  
20 translation of what he asked me to share with the Court. And  
21 the last sentence he added during the break for the judge.

22 "Today is the first day of the holy month of Ramadan.  
23 One of Islam's most sacred days. Ramadan is a period where the  
24 virtues of patience, sacrifice, leniency, mercy, and compassion  
25 are heavily felt. Muslims fast and understand those people who

1 are hungry and what it feels like to be hungry and to help  
2 those in need. The best way to understand another's life is to  
3 internalize the other person's condition.

4 "I kindly request your understanding for the situation  
5 that I and my family are in. In this past year, I have learned  
6 many new things, and what I used to consider as a priority, has  
7 now profoundly changed. As of now, apart from my family, I  
8 have no other priorities.

9 "Thank you for your very thoughtful consideration."

10 THE COURT: You're very welcome. And the government?

11 MR. LOCKARD: I'll take the podium, your Honor.

12 THE COURT: Sure.

13 MR. LOCKARD: So, your Honor, as we all know,  
14 Mr. Atilla was convicted of the five felony offenses following  
15 approximately four weeks of trial, in which he received the  
16 full extent of due process and procedural protections as he is  
17 entitled to under the American system of justice.

18 And I think from the proceedings so far this morning,  
19 it is clear that in addition to a fair trial, Mr. Atilla will  
20 also receive a fair sentence. It is clear that the Court has  
21 carefully and deeply considered all the proceedings in this  
22 case, as well as the evidence that was introduced at trial, and  
23 the relevant sentencing laws and factors.

24 I'd like to address the government's remarks to  
25 principally the two areas that we think are extremely

1 significant in considering an appropriate sentence in this  
2 case, which are both the nature and seriousness of the offense,  
3 and the defendant's role in it. Those are not only important  
4 categories, but also big categories, and the Court has  
5 addressed them at length this morning, but I would like to  
6 share the government's view of what the evidence adduced at  
7 trial shows about those two things.

8 I respectfully submit that the evidence showed through  
9 approximately four weeks of testimony and thousands of  
10 exhibits, that Mr. Atilla was a significant, not a minor, but a  
11 significant participant, and not a reluctant one.

12 I respectfully submit that the evidence showed that  
13 Mr. Atilla was a committed participant in a conspiracy to  
14 undermine United States sanctions that related to Iran's  
15 globally dangerous and destabilizing conduct, and in  
16 particular, sanctions targeting Iran's illicit military nuclear  
17 program.

18 I think the evidence showed that Mr. Atilla was a  
19 participant in that conspiracy for more than three and a half  
20 years, from 2012 until early 2016. That he participated in  
21 that conspiracy at the height of his professional standing and  
22 responsibility, as the deputy general manager of Turkey's  
23 second largest state-owned bank.

24 I submit that the evidence showed that this conspiracy  
25 happened within Mr. Atilla's main areas of professional

1 responsibility as the deputy general manager for international  
2 banking, a position that he rose to, following Mr. Suleyman  
3 Aslan's promotion from that very same position to general  
4 manager of the bank. That they were within Mr. Atilla's core  
5 professional responsibilities as deputy general manager for  
6 international banking, for U.S. and international sanctions,  
7 for Iranian banking and oil relationships. In his position at  
8 the bank, that was the main financial channel for Iranian and  
9 Turkish trade. At the bank, that was the sole repository of  
10 Iranian oil revenues from Turkish purchases of Iranian  
11 petroleum products.

12 And that conspiracy succeeded to a massive scale,  
13 because of Mr. Atilla's success in concealing that scheme and  
14 in lying to the senior most U.S. officials responsible for the  
15 implementation and enforcement of those sanctions.

16 That scheme succeeded to a massive scale because of  
17 Mr. Atilla's expertise in developing the means and methods by  
18 which the conspiracy was carried out, both in the gold  
19 transactions and in the fake food transactions.

20 I submit that there was no one at the bank that had a  
21 greater or more direct responsibility for stopping the offense  
22 conduct. But instead, Mr. Atilla actively joined and furthered  
23 it, and as a result, greatly increased his bank's profits from  
24 this enormous gold and food trade, and protected his bank from  
25 what one witness at trial called a potential death blow of

I5G3ATI3

## Sentencing

1 being sanctioned under the U.S. authorities for participating  
2 in that conduct.

3 So, addressing Mr. Atilla's role, both at the bank and  
4 in the offense conduct, I'm going to address both his role in  
5 terms of formal responsibilities and position, as well as some  
6 concrete examples of how he exercised that role and  
7 responsibility, and respectfully submit that this shows that  
8 not only was Mr. Atilla a leader -- not the leader, certainly,  
9 and I think we're very candid about the scope and scale of the  
10 conspiracy and the range of participants that it had. But I  
11 think the law is also clear that a conspiracy can have multiple  
12 leaders, each with separate layers of responsibility. And even  
13 someone who is supervised by others can in turn exercise  
14 managerial responsibility within their sphere.

15 But at the very least we would submit that this shows  
16 that Mr. Atilla was certainly not a minor participant, and I'll  
17 explain why we think that the evidence shows that that's the  
18 case.

19 As I mentioned, Mr. Atilla was the deputy general  
20 manager for international banking. And in that role, he was  
21 the person responsible for Halkbank's international banking  
22 relationship, both its U.S. correspondent account, a very  
23 important lifeblood of an international bank in having access  
24 to U.S. dollar transactions and the U.S. financial system.  
25 Also responsible for the bank's relationships with other



1 international banks, especially Iranian banks, and an  
2 enormously important one was the Central Bank of Iran which had  
3 a multibillion dollar account at Halkbank to hold the proceeds  
4 of Iran's sales of oil and natural gas to Turkey.

5 Because of that, Mr. Atilla, also as part of his  
6 position at the bank, had responsibility for Halkbank's  
7 involvement in the Iranian oil trade. All of this is happening  
8 within the heartland of what it is that he does at the bank.

9 Mr. Atilla, getting down more granularly, joined in  
10 and actively participated in this conspiracy at an important  
11 level in 2012. I think that's shown in a number of ways. It's  
12 shown through his participation. There are not many people who  
13 are participating in a lot of different high-level important  
14 meetings. Mr. Atilla is doing that. He is meeting not only  
15 with the undersecretary for the U.S. Treasury Department, the  
16 director of OFAC, he's also meeting with senior officials of  
17 the National Iranian Oil Company, he is meeting with senior  
18 officials of Iranian banks on both sides of what's happening.  
19 The conduct to evade and undermine the sanctions, and the  
20 meetings to conceal and lie about what's happening.

21 He is applying his sanctions expertise to give  
22 instruction and direction to Mr. Zarab and his employees about  
23 how to document these transactions. And that's shown in the  
24 evidence when, in August of 2012, which is shortly after  
25 Executive Order 13622, which includes the sanctions provisions

1 relating to the facilitation of gold acquisition by the  
2 government of Iran, within days, the export documentation for  
3 Mr. Zarrab's companies' gold exports switches wholesale from  
4 being exported to Iran to being exported to Dubai. The obvious  
5 reason for doing that is to conceal the government of Iran's  
6 role in funding these gold purchases, and benefit that it  
7 obtains from having that gold resold in Dubai, so that there is  
8 a ready access to a huge pool of essentially unregulated funds  
9 in Dubai for the government of Iran and Iranian banks.

10 And as Mr. Zarrab testified, and as I think the rest  
11 of the evidence is consistent, it was Mr. Atilla who directed  
12 that change.

13 Again, in February of 2013, when the bilateral trade  
14 requirement came into effect as a result of the IFCA, it  
15 switches again back from Dubai to Iran. And in a recorded  
16 phone call, Mr. Zarrab describes how that's Mr. Atilla's  
17 instructions, and it is because of the sanctions. And that's  
18 in order to appear to comply with the bilateral trade  
19 requirement governing oil revenues, and this is all  
20 Mr. Atilla's personal involvement and direction in aspects of  
21 the gold trade.

22 With respect to the fake food trade, Mr. Atilla's  
23 boss, Mr. Aslan, calls it "Atilla's method." At a time when  
24 Mr. Aslan and Mr. Zarrab have no reason to believe that their  
25 communications are going to be intercepted or recovered. This

1 is how they among themselves are describing the fake food  
2 system. Mr. Atilla gives directions to Mr. Zarrab about how to  
3 better falsify documents and transactions, about how to correct  
4 errors relating not only to transaction amounts, to the  
5 purported volume of the sales, and to the purported ships that  
6 are being used in the fake documents. He protects Mr. Zarrab  
7 from being required to submit bills of lading and other  
8 documents that he cannot submit without exposing the scheme to  
9 detection. And all of this simultaneous to making contrary  
10 representations to the United States Treasury Department.

11 So I'd like to address for a moment about how  
12 Mr. Atilla's role compares to the average participant in the  
13 offense, which is the relevant phrasing of the guidelines.

14 So as the Second Circuit has explained, the average  
15 participant is the average participant in the offense. Because  
16 of the scope and scale of the offense, that covers a pretty  
17 large ladder of people, including, as the Court already has  
18 noted, government of Turkey officials, Mr. Atilla's boss  
19 Suleyman Aslan, and Mr. Zarrab and his employees and companies.  
20 It also involves other people at the bank who are less senior  
21 than Mr. Atilla. It includes Levant Balkan, who was charged as  
22 a co-defendant and who had a less senior position and a shorter  
23 participation in the conspiracy. The Court and jury saw  
24 Mr. Atilla's e-mail exchanges with Hakan Aydogan, where  
25 Mr. Atilla gives Mr. Aydogan instructions to reduce the amount

1 of documentation that the bank required from Mr. Zarrab.

2 Mr. Aydogan is a lower-level employee than Mr. Atilla.

3 It includes a whole host of Mr. Zarrab's employees,  
4 like co-defendant Abdullah Hapmani, who was a manager of  
5 Mr. Zarrab's offices. Another Zarrab employee, Camellia  
6 Jamshidy, and a whole host of gold couriers, money couriers,  
7 people involved in operating front companies or exchange house  
8 accounts. It includes the Iranian government officials and oil  
9 officials.

10 It is a wide ladder, and Mr. Atilla certainly had more  
11 responsibility and more discretion and more authority than a  
12 lot of those people. He did not have the most authority in the  
13 offense. He is not the top defendant. But he is a significant  
14 defendant. And we submit that the evidence is inconsistent  
15 with a minor role for Mr. Atilla.

16 So I'd like to address a little bit the evidence about  
17 Mr. Atilla's role and whether or not he was a reluctant  
18 participant. It is an important consideration for Mr. Atilla's  
19 culpability and the appropriate sentence. And I'd like to take  
20 the opportunity to walk the Court through how the government  
21 assesses that evidence through the evidence that was adduced at  
22 trial.

23 So specifically, the Court has highlighted, and I  
24 think appropriately so, whether the events of April of 2013  
25 illustrate that Mr. Atilla was a reluctant participant. I'll

I5G3ATI3

## Sentencing

1 suggest that it does not show that, and I'd like to walk  
2 through the evidence and why it is that we think it does not  
3 show that.

4 So, as has already been discussed at length, in April  
5 of 2013, Mr. Zarrab and Mr. Atilla spoke about the fake food  
6 business that Mr. Zarrab was in the process of starting up.  
7 That he was starting up at the instruction of the bank, not on  
8 his own initiative. At this time, Mr. Atilla was already a  
9 full-fledged member of this conspiracy for about a year through  
10 the gold transactions. He was not a new member of the  
11 conspiracy at this point. He already had been lying to the  
12 U.S. Treasury officials about Halkbank's role and knowledge of  
13 the gold trade since 2012 in meetings and in phone calls with  
14 Mr. Cohen and Mr. Szubin. He already had given Mr. Zarrab and  
15 his employees directions about how to document the gold exports  
16 in order to appear to comply with the precious metal sanctions  
17 provisions and the oil provisions.

18 All of this, we submit, suggests that Mr. Atilla was  
19 not a reluctant participant in the conspiracy. And in fact,  
20 Mr. Atilla himself, when he testified, he testified "Nobody can  
21 make me do something that I don't want to do."

22 So how do we interpret this phone call? And we  
23 suggest that what this episode shows is not that Mr. Atilla was  
24 less culpable as a result of this reluctance that he showed.  
25 It shows that Mr. Atilla was concerned about detection. Not

1 about the moral impact or the legal impact, but about detection  
2 of the scheme.

3 Mr. Atilla at this point, as Mr. Zarrab credibly and  
4 candidly testified, did not yet know that these food  
5 transactions would be entirely fake. Mr. Atilla recognized on  
6 the face of the description of the scheme that it was  
7 problematic and unrealistic.

8 Mr. Atilla in April of 2013 had just been warned in  
9 recent meetings with Treasury officials, he had just had the  
10 pull-aside with OFAC Director Szubin. He had just received a  
11 letter from Director Szubin drawing his attention to a Greek  
12 national who had in fact been sanctioned under the secondary  
13 sanctions for providing services to Iran's oil industry.

14 Calling that a threat may be a little bit overbroad,  
15 but it was certainly, it was certainly a pitch that was high  
16 and tight.

17 So this is the context in which Mr. Zarrab has this  
18 conversation, and Mr. Zarrab himself testified Mr. Aslan just  
19 didn't understand how this was supposed to work.

20 So from all of that evidence, we suggest that the best  
21 and the clearest inference to be drawn from this episode is not  
22 that Mr. Atilla had any moral or legal reluctance about the  
23 fake food trade. He had a security or detection-related  
24 concern. And after he received the phone call from Mr. Aslan,  
25 which in his trial testimony Mr. Atilla denied ever happened,

1 but the evidence showed that it did, he immediately and without  
2 any evidence of any further hesitation worked to improve that  
3 method, and to lie to Treasury officials about it.

4 And you can see that including, among other places, in  
5 Defense Exhibit 211, and related exhibits which are the e-mails  
6 between Mr. Atilla and Mr. Aydogan shortly after that April 10  
7 phone call. You can see it in the July 2nd through July 9  
8 phone calls between Mr. Atilla and Mr. Aslan and Mr. Zarrab.  
9 And you can see it in Mr. Atilla's future communications with  
10 the Treasury Department about Halkbank's involvement in the  
11 food trade and its relationship with Mr. Zarrab.

12 Mr. Atilla has never claimed that he did this because  
13 he was ordered to. He's never claimed that he did it because  
14 he had no choice. In fact, Mr. Atilla had an opportunity to  
15 explain his conduct, and in more than a day of testimony under  
16 oath in this courtroom, he flatly denied that any of it ever  
17 happened.

18 Just one last exhibit that we think is significant in  
19 evaluating this. We think that is also consistent with another  
20 time that Mr. Atilla raised a concern about detection, and that  
21 was Government's Exhibit 304-T, which is the phone call  
22 discussing Mr. Atilla's warning to Mr. Aslan that the National  
23 Iranian Oil Company had transferred funds directly to  
24 Mr. Zarrab's bank account. The reason Mr. Atilla raised that  
25 is that is a serious detection problem. We know he had no

1 problem with the less direct, less detectable system that was  
2 supposed to be followed, for NIOC to transfer the funds first  
3 to an Iranian bank and then to Mr. Zarrab. And we submit that  
4 is all consistent with Mr. Atilla being neither a cog nor a  
5 reluctant participant in this offense.

6 So I'd like now to turn, unless the Court has any  
7 questions, to our assessment of the seriousness of the offense,  
8 the seriousness and nature of the offense.

9 So, in the government's sentencing submissions, we  
10 were again I think pretty candid that it is hard to find a  
11 ready comparison for this case or for this offense. And the  
12 reason that it is hard to find a comparison is because, to our  
13 knowledge, there has not been a bigger criminal sanctions  
14 evasion prosecution in a U.S. court than this case. This is  
15 the biggest sanctions evasion case prosecuted in the United  
16 States that we are aware of. The scope and scale is massive.

17 The context of that offense are U.S. national security  
18 controls that were adopted to address a persistent and  
19 long-running threat to national security and international  
20 security by the government of Iran, and its actions and its  
21 policies.

22 There are sanctions that targeted a dangerous regime  
23 with globally significant activity, grave human rights  
24 violations, a long history of support and funding for foreign  
25 terrorist organizations, and acts of terrorism, an illicit



1 ballistics missile program, and an illicit military nuclear  
2 program. That, as the U.S. and international community became  
3 increasingly aware of and increasingly concerned about,  
4 resulted in increasingly targeted sanctions against the  
5 government of Iran, its financial and oil sectors, the very  
6 sanctions that are in some ways at the heart of this case.

7 This is not a case about drugs, it's not a case about  
8 shipments of weapons. But it is, in a very real sense, a case  
9 about nuclear capability. Nuclear capability by the world's  
10 foremost state sponsor of terrorism.

11 This is activity that happened contemporaneously with  
12 the adoption and implementation of those sanctions,  
13 contemporaneously with a sustained and coordinated  
14 international effort to try and get Iran to stop that military  
15 nuclear program.

16 And it undermined those negotiations and those efforts  
17 in a way that was both big, monumental in scope, and momentous  
18 in timing.

19 And Mr. Atilla was not in the least unaware of those  
20 facts. Mr. Atilla was a student of the sanctions from the  
21 world's best teachers: The Undersecretary for Terrorism and  
22 Financial Intelligence of the U.S. Treasury Department. The  
23 director of OFAC. Mr. Atilla was told directly and repeatedly  
24 and in person throughout the entire offense conduct what these  
25 sanctions were, why they existed, the concerns that the

1 American and international communities had about Iranian  
2 sanctions efforts, proliferation efforts, its weapons of mass  
3 destruction programs, and he engaged in the conduct anyway.

4 As the Court knows, organized criminal activity is  
5 more dangerous and more difficult to root out than individual  
6 activity. This was highly organized, highly organized criminal  
7 activity involving both Mr. Zarrah and Halkbank, and a number  
8 of its senior officers, including Mr. Atilla, and government of  
9 Turkey officials, and government of Iran officials.

10 And the victims of that offense, there's no one  
11 particular person or group of persons that can be identified to  
12 say "these are the victims." I think that in some ways, the  
13 most distinguishing factor between some of the other financial  
14 crimes cases, the Madoffs and the Dreiers and the cases like  
15 that. But that doesn't make the case less serious. In fact,  
16 it is because the case is more serious that there is no readily  
17 identifiable particular victim. It is so serious that  
18 everybody is a victim of it.

19 The gravity of the threat, the fact that it's global  
20 in nature, the threat not only of a state sponsor of terrorism  
21 having nuclear military weapons, but also the threat of a  
22 nuclear arms race in the Middle East, these are threats that  
23 face everybody.

24 I think when the Court considers the letters that have  
25 been submitted on Mr. Atilla's behalf, the Court clearly has,

1 and clearly should consider those letters. But I think those  
2 letters have to be squared with the evidence that was  
3 introduced here in this courtroom, evidence that was introduced  
4 by live witnesses subject to cross-examination, evidence that  
5 was introduced through recordings of conversations, and  
6 contemporaneous e-mails.

7 And while in one dimension of his life Mr. Atilla may  
8 have exhibited an honesty and an integrity and a commitment to  
9 truth, in this offense, for a period of several years, the  
10 heart, the heart of his participation, was lying and deception.  
11 That is the heart of what he did for more than three years as  
12 one of the significant players in this offense. As someone  
13 whose participation outlasted every other single person at the  
14 bank. It outlasted Mr. Aslan's. It outlasted Mr. Balkan's.  
15 It outlasted Mr. Aydogan's. It outlasted everybody else.

16 I suggest that is not an aberration. It is consistent  
17 with how Mr. Atilla conducted himself in his post-arrest video,  
18 which the Court saw, and it is consistent with how he conducted  
19 himself under oath on the witness stand in words that he  
20 directed not only to the jury, but also to the Court.

21 And when the rubber hit the road, Mr. Atilla chose  
22 lies and deceptions, not honesty and integrity, and I think  
23 that is appropriate for the Court to consider in determining  
24 the appropriate sentence.

25 So, I'll land on a slightly more technical issue of

1 the guidelines and how they work. So the guidelines, the Court  
2 has noted there's a pretty big disparity in how the guidelines  
3 can play out, depending on which guidelines provision you rely  
4 on. Whether the guidelines are calculated under the first  
5 prong of the money laundering guideline or the second prong of  
6 the money laundering guideline. But that doesn't show that the  
7 guidelines are in any way arbitrary. I think what it shows is  
8 that different guidelines measure different things.

9 So in one prong of the money laundering guidelines,  
10 looking at the volume of money that was involved in the  
11 offense, it adds a dramatically increasing effect on the  
12 guidelines calculation. Under another provision, no account  
13 whatsoever is given to the volume of money that's in play, and  
14 it results in a dramatically lower guidelines calculation.

15 But I think the guidelines recognize that. They  
16 recognize that in comment two to guideline section 2M1.5.

17 So, the correctly calculated guidelines, we submit,  
18 are based on the second prong of 2S1.1 which does incorporate  
19 the volume of funds involved. As a strictly guidelines matter,  
20 we think that is correct. And I'll talk about why we didn't  
21 recommend a 105-year sentence in a moment.

22 But under the alternate range, based on the sanctions  
23 provision, there is no enhancement whatsoever for a lot of  
24 aspects of the offense conduct, but comment two recognizes  
25 that. And comment two says that a greater sentence may be

1 warranted based on the degree to which the violation threatens  
2 security, the volume of commerce, the extent of planning or  
3 sophistication, and whether there were multiple occurrences.

4 And your Honor, every single one of those four factors  
5 is present to an extreme degree in this case. I've already  
6 talked about the national security implications of the offense;  
7 the volume of commerce, unparalleled; the extent of planning or  
8 sophistication, it was extremely well planned and  
9 sophisticated; and it happened persistently and repeatedly over  
10 a period of years.

11 So while there is a lower guidelines calculation that  
12 results from the alternate calculation, I think the guidelines  
13 themselves recognize circumstances under which that may be  
14 inappropriately low, and we suggest that all of those are  
15 present here.

16 So in the government's view the correctly calculated  
17 guidelines calculation, which is the statutory maximum of 105  
18 years. There is the alternate calculation --

19 THE COURT: It is actually life, subject to the  
20 statutory maximum.

21 MR. LOCKARD: Correct, your Honor. I shorthanded it.  
22 Life subject to the statutory maximum. Which, again, is  
23 effectively life, given the number of years.

24 There is the alternate guidelines calculation, which,  
25 depending on whether the Court applies a minor role adjustment,

1 is the 97 to 121 months, or, as we suggest, 168 to 210, based  
2 on our analysis of what the evidence shows about Mr. Atilla's  
3 role in the offense.

4 But we did not suggest a 105-year sentence. I think  
5 we agreed that effectively a life sentence not only is rarely  
6 imposed, but is also inappropriate for Mr. Atilla.

7 And so, we very deliberately and consciously made a  
8 recommendation that a sentence comparable to approximately 20  
9 years would be both appropriate and supported by comparable  
10 cases. That is a significantly below guidelines sentence  
11 recommendation. It is about 80 years below guidelines.

12 But we think that a significant sentence is necessary  
13 in a case like this where scope of the conduct is unparalleled,  
14 the national security implications are grave, the defendant,  
15 though not the leader, certainly a person of significance and  
16 discretion, and supervisory ability. And given the nature of  
17 the threat involved, and the kind of conduct that was engaged  
18 in, we think that the sentence should reflect the nature and  
19 seriousness of the offense, promote respect for the law, and  
20 afford sufficient deterrence for others who might seek to  
21 engage in a similar offense.

22 Thank you, your Honor.

23 THE COURT: Thank you. So, I'm then going to adopt  
24 the findings of fact in the presentence report, unless defense  
25 counsel has any further objections to those already in the

I5G3ATI3

## Sentencing

1 record.

2 MR. ROCCO: No, your Honor.

3 THE COURT: Mr. Atilla, do you have any further  
4 objections?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: How about the government?

7 MR. LOCKARD: No, your Honor.

8 THE COURT: Hold on one second.

9 (Pause)

10 THE COURT: So, what I'm going to do at this point is  
11 preview the sentence that I intend to impose, and then I'm  
12 going to move forward and impose it.

13 So I intend to impose a sentence here of 32 months of  
14 incarceration with credit, of course, for time already served.

15 The offense level I've determined is 30, the criminal  
16 history category is I, and the appropriate guidelines range is  
17 97 to 121 months.

18 On each count of conviction, I intend to impose that  
19 same sentence of 32 months and they are to run concurrently.

20 And if the defense is still seeking a recommendation,  
21 you can think this over, I would recommend incarceration at a  
22 BOP operated non-administrative facility which provides medical  
23 care and is near New York City, and you requested specifically  
24 FCI Danbury which will facilitate family and Turkish consulate  
25 visits, if you want that recommendation.

I5G3ATI3

## Sentencing

1 MR. ROCCO: Yes, your Honor.

2 THE COURT: Okay. I don't intend to impose any  
3 supervised release for reasons that I mentioned before and I  
4 incorporate here by reference. Nor do I intend to impose a  
5 fine for the reasons that I mentioned before and incorporate  
6 here by reference. Nor do I intend to impose restitution, also  
7 for the reasons I mentioned before in terms of review of the  
8 presentence materials.

9 I do intend to impose a \$500 special assessment, which  
10 is mandatory under 18, United States Code, Section 3013.

11 And briefly, the reasons for the sentence as I  
12 mentioned before, of course, sentence is the most difficult  
13 process of a federal court. So I've taken great deal of time  
14 and effort, which I'm supposed to do, and determined that the  
15 offense level was 30, the criminal history category I. the  
16 guideline range that I came up with was 97 to 121 months,  
17 making this a lenient sentence.

18 I think it is an appropriate sentence, having reviewed  
19 the factors, all of them at 3553(a), and finding that those  
20 factors, with the exception of the guidelines range sentence,  
21 were more impactful, considering the nature and circumstances  
22 of the offense, Mr. Atilla's history and characteristics,  
23 reflecting the seriousness of the offense, trying to promote  
24 respect for law, provide a just punishment, and afford adequate  
25 deterrence to criminal conduct, protecting the public from



I5G3ATI3

## Sentencing

1 further crimes, and providing needed medical treatment,  
2 educational or vocational training or other correctional  
3 treatment in the most effective manner.

4 So I'm happy to hear from, if they wish to be heard,  
5 defense counsel, Mr. Atilla, and the government one more time  
6 before I impose that sentence.

7 MR. ROCCO: Your Honor, we have nothing further to  
8 say, thank you.

9 THE COURT: Mr. Atilla?

10 THE DEFENDANT: No, your Honor. Thank you very much.

11 THE COURT: And how about the government.

12 MR. LOCKARD: No, your Honor.

13 THE COURT: So I would ask Mr. Atilla and counsel to  
14 stand and I will impose the sentence.

15 Having considered the Sentencing Reform Act of 1984,  
16 United States sentencing guidelines, and the particularly the  
17 factors under 18, United States Code, Section 3553(a), it is my  
18 judgment that Mr. Mehmet Hakan Atilla be committed to the  
19 custody of the bureau of prisons to be imprisoned for a term of  
20 32 months with credit for the time he has already served. And  
21 that's on each count of conviction and to run concurrently.

22 And I'm making the recommendation with respect to FCI  
23 Danbury that I mentioned a few minutes ago and will include  
24 that here.

25 I'm not imposing supervised release for reasons I

1 mentioned before, and incorporate here by reference. I'm not  
2 imposing a fine, also for reasons that I mentioned before and  
3 the statements in the presentence investigation report. I do  
4 not think that restitution is appropriate. So there is no  
5 restitution because there is no victim within the meaning of  
6 the statute, 18, United States Code, Section 3663 or 3663(a).  
7 I am imposing a \$500 special assessment, which is due  
8 immediately.

9 And as for the reasons for this sentence, it is a  
10 sentence that as best I could reflects all of the factors at  
11 3553(a) in the order of significance I found them in this case.  
12 And I incorporate that entire discussion from this morning here  
13 by reference.

14 Does either counsel know of any legal reason why the  
15 sentence should not be imposed as so stated?

16 MR. ROCCO: No, your Honor.

17 MR. LOCKARD: No, your Honor.

18 THE COURT: Then I hereby order the sentence to be  
19 imposed as so stated.

20 Mr. Atilla, you have the right to appeal this  
21 sentence. If you are unable to pay the costs of an appeal, you  
22 have the right to apply for leave to appeal in forma pauperis.  
23 If you request, the clerk of court will prepare and file a  
24 notice of appeal on your behalf immediately.

25 Do you understand your appeal rights?

I5G3ATI3

## Sentencing

1 THE DEFENDANT: Yes, your Honor. Thank you very much.

2 THE COURT: And at this point is the government  
3 seeking to dismiss any open aspects of the case if there are  
4 any?

5 MR. LOCKARD: There are none, your Honor. There is an  
6 underlying superseding indictment and we ask the Court to  
7 dismiss those charges with respect to Mr. Atilla.

8 THE COURT: I grant that application.  
9 Starting with the government, did you wish to add  
10 anything further to today's sentencing proceeding?

11 MR. LOCKARD: Nothing further, your honor.

12 THE COURT: How about the defense?

13 MR. ROCCO: Nothing further, Judge.

14 THE COURT: I think that then concludes our work for  
15 today. Mr. Atilla, I wish you the best of luck going forward.

16 THE DEFENDANT: Thank you, your Honor.

17 THE COURT: We are adjourned.

18 (Adjourned)

19

20

21

22

23

24

25